

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID EVANS,

Plaintiff,

-against-

THE CITY OF NEW YORK; NEW YORK
POLICE DEPARTMENT; OFFICER
LESLIE M. ROSA, Shield # 025255;
OFFICER ISRAEL LOPEZ, Shield
019123; and OFFICER JOHN DOE,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#

DATE FILED: 11/8/2018

ORDER

14 Civ. 1785 (ER)

Ramos, D.J.:

David Evans, proceeding initially through counsel,¹ brought the instant action on March 14, 2014. *See* Compl. ¶¶ 3–9, Doc 1. In his Complaint, Mr. Evans alleges claims for false arrest, false imprisonment, excessive force, assault and battery, malicious prosecution, intentional infliction of emotional distress, conspiracy, and negligence. *Id.* The factual basis for Mr. Evans' Complaint stems from an incident that took place in Bronx County on July 22, 2013, during which Mr. Evans was stopped by Officer-Defendants Rosa and Lopez, allegedly punched in the face by Rosa, allegedly "maced" by Lopez, and subsequently arrested by Rosa, Lopez, and other officers with the New York Police Department. *Id.* ¶¶ 10–20. Mr. Evans alleges that Defendants' conduct violated 42 U.S.C. § 1983 and state law. Defendants deny liability. *See* Docs. 4, 32.

¹ On July 19, 2017, the Court granted Mr. Evans' request for withdrawal of counsel and directed him to have substitute counsel enter an appearance before the Court by August 21, 2017. Doc. 39. On August 26, 2017, Mr. Evans requested a two-week extension of time to find new counsel. Doc. 42. The Court granted his request and directed him to either have substitute counsel enter an appearance by September 11, 2017, or proceed *pro se*. Doc. 43. To date, no substitute counsel has entered an appearance before the Court. Consequently, Mr. Evans is a *pro se* litigant.

On September 19, 2016, Defendants moved for summary judgment. Docs. 24–27. After myriad status conferences, settlement conferences, and extensions of time, the Court endorsed Defendants’ proposed briefing schedule, pursuant to which Mr. Evans’ response in opposition to their summary judgment motion was due on or before August 30, 2018. Doc. 62.

Rather than filing a formal or informal response in opposition to Defendants’ summary judgment motion, on August 30, 2018, Mr. Evans submitted a letter to the Court in which he wrote that he no longer wanted to proceed to trial. Doc. 63. Instead, Mr. Evans wanted to resume settlement talks with Defendants. *Id.*

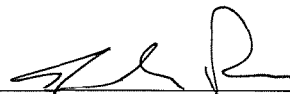
Defendants have advised the Court that they are disinclined to resume settlement talks. Doc. 64. Rather, Defendants request that this Court deem their motion for summary judgment fully briefed and unopposed. *Id.*

The Court will not direct the parties to engage in further settlement talks. The Court hereby ORDERS Mr. Evans to respond to Defendants’ motion for summary judgment by **December 8, 2018**. Mr. Evans is warned that failure to respond to Defendants’ motion will result in the Court deeming Defendants’ motion fully briefed and ripe for judgment.

This Order, and the deadline contained herein, supersedes the nearly identical Order filed on September 17, 2018, and the deadline contained therein. *See* Doc. 65. The Clerk of Court is respectfully directed to mail a copy of this Order to Mr. Evans.²

It is SO ORDERED.

Dated: November 8, 2018
New York, New York



Edgardo Ramos, U.S.D.J.

² Mr. Evans has informed the Court that he did not receive a copy of the Court’s September 17, 2018, Order. The Clerk of Court is further directed to mail a copy of that Order, Doc. 65, to Mr. Evans.